

REMARKS

Upon entry of the foregoing amendments, claims 3 and 16 – 18 and 21 – 25 are under consideration. Applicants have amended claim 3 to correct dependency. Claim 3 is now dependent from claim 16. Applicants have cancelled claims 19 and 20. Applicants have amended claim 23 to correct typographical errors and inconsistencies. Applicants have amended claim 21 to recite “a DNA segment which encodes a polypeptide selected from the group...” Applicants have also amended claim 23 to now recite “a chimeric polypeptide comprising an affinity tag joined by a peptide bond to a polypeptide...” New claim 25 is directed to the different types of affinity tags, such as a poly-histidine tract, protein A, and glutathione S transferase. Basis for this amendment can be found in the Specification as originally filed, and in particular at pg. 3, line 35 and pg. 18, lines 15 – 20.

Accordingly, the present amendment adds no new matter.

OBJECTION TO THE SPECIFICATION

The Examiner has objected to the Specification under M.P.E.P. §608.01, requesting Applicants to remove the embedded hyperlink and/or other form of browser-executable code on pgs. 61 and 62.

Applicants respectfully disagree. The hyperlinks on pgs. 61 and 62 were included within the present Specification to assist one of skill in the art in the practice of the present invention. Applicants respectfully assert that:

Where the hyperlinks and/or other forms of browser-executable codes are part of applicant's invention and it is necessary to have them included in the patent application in order to comply with the requirements of 35 U.S.C. §112, first paragraph, and the applicant does not intend to have these hyperlinks be active links, examiners should not object to these hyperlinks. The Office will disable these hyperlinks when preparing the text to be loaded onto the USPTO web database.

See e.g., M.P.E.P. §608.01. Accordingly, Applicants request withdrawal of the present objection.

THE §112, SECOND PARAGRAPH REJECTION

The Examiner has rejected claims 3 and 23 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Applicants have amended claim 3 to correct dependency. Claim 3 is now dependent from claim 16. Applicants have also amended claim 23 to correct a typographical error.

In light of the present amendments, Applicants respectfully request withdrawal of the present rejection under 35 U.S.C. §112, second paragraph.

THE §112, FIRST PARAGRAPH REJECTION

The Examiner has also rejected claims 3, 19 – 21 , 23 and 24 under 35 U.S.C. §112, first paragraph.

Applicants have cancelled claim 19 and amended claim 3 to correct dependency. Claim 3 is now dependent from claim 16. Applicants have amended claim 21 to recite “a DNA segment which encodes a polypeptide selected from the group...” Applicants have also amended claim 23 to now recite “a chimeric polypeptide comprising an affinity tag joined by a peptide bond to a polypeptide...” Applicants have also added new claim 25, which is directed to the different types of affinity tags, such as a poly-histidine tract, protein A, and glutathione S transferase. Basis for this amendment can be found in the Specification as originally filed, and in particular at pg. 3, line 35 and pg. 18, lines 15 – 20.

In light of the present amendments, Applicants respectfully request withdrawal of the present rejection under 35 U.S.C. §112, first paragraph.

THE §102, FIRST PARAGRAPH REJECTION

The Examiner has also rejected claims 16, 17 and 19 – 22 under 35 U.S.C. §102(a), as being anticipated by Yokoyama-Kobayashi *et al.* (Database GenEmbl, Accession No. AB015631). The Examiner has objected to claim 18, as being dependent upon a rejected claim base. Specifically, the Examiner alleges that Yokoyama-Kobayashi teaches an isolated

polypeptide which encodes SEQ ID NOS: 17 and 20. The Examiner also alleges that the reference further teaches "recombinant expression in gastric adenocarcinomas cells using expression vectors..."

Applicants disagree. **"To anticipate a claim, the reference must teach every claim element of the claim."** See e.g., M.P.E.P. §2131. Specifically, "[a] claim is anticipated only if *each and every element as set forth in the claim is found*, either expressly or inherently described, in a single prior art reference." See e.g. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Yokoyama-Kobayashi does not teach an isolated polynucleotide. Yokoyama-Kobayashi merely discloses a cds clone, with no indication as to reading frame, signal sequence or mature polypeptide. Yokoyama-Kobayashi does not teach a mature, isolated polynucleotide. Further, Yokoyama-Kobayashi does not teach recombinant expression in gastric adenocarcinoma cells using expression vectors. This reference is merely a database entry which specifies that the mRNA was isolated from a human gastric adenocarcinoma cell line. It does not explicitly teach any expression vectors comprising a promoter, a polynucleotide of the present invention and a transcription terminator.

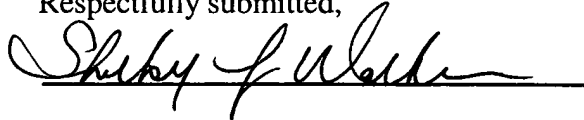
Accordingly, Yokoyama-Kobayashi does not teach every claim element, and can not anticipate the rejected claims. Consequently, Applicants request reconsideration and withdrawal of the rejection of claims 16, 17 and 19 – 22 under 35 U.S.C. §102(a), and the objection to claim 18.

CONCLUSION

On the basis of the foregoing amendments and remarks, Applicants respectfully submit that the pending claims are in condition for allowance. If for any reason the Examiner feels that a telephone conference would expedite prosecution of the Application, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

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Respectfully submitted,



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Enclosures:

Petition and Fee for Extension of Time (in duplicate)
Amendment Fee Transmittal (in duplicate)
Postcard